

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

UNITED STATES OF AMERICA)	
)	
v.)	
)	Criminal Action No. 21-cr-11 (RGA)
KHALIL RODRIGUEZ-FITZGERALD,)	
)	
Defendant.)	

SENTENCING MEMORANDUM

Khalil Rodriguez-Fitzgerald was involved in an extremely dangerous criminal lifestyle. He obtained firearms from out of state, and sold them to or traded them with members of a violent street gang, all while trafficking in drugs and flashing large stacks of cash on social media. Frankly, he is lucky that he is alive to be sentenced, having lost a number of his friends to gun violence. But the risks he took were not only to himself and his friends. Gang violence is a poison that infects the entire state. Young people who are looking for acceptance in a peer group are attracted to these gangs either for friendship or protection, and they find themselves the victim of or perpetrator of gun violence. Innocent civilians are caught in the crossfire. The defendant played an integral role in the functioning of the gang by facilitating these young people getting their hands on dangerous weapons. He stands to be sentenced for himself possessing a gun last year, but his criminal lifestyle well exceeds his offense conduct. The recommended guideline range of 24-30 months is simply inadequate. The government therefore requests that the Court impose an upward variance and sentence the defendant to 57 months imprisonment.¹

¹ As it does in every case, the government will provide a sealed Attachment A to the Court before sentencing.

A. The Defendant's Obtains a Handgun from a Gun Supplier in North Carolina

Defendant Khalil Rodriguez-Fitzgerald ("Rodriguez") pled guilty to possessing a handgun. The story of how he obtained that gun – and his involvement as a gun distributor within a violent gang – are a glimpse into the causes of the gun violence epidemic in Wilmington.

On February 7, 2021, Rodriguez's gun supplier from North Carolina offered Rodriguez a tan "19x" Glock handgun. The gun was straw purchased in North Carolina that same day.² On February 8, Rodriguez picked up the gun from that gun supplier at a hotel in New Jersey. Rodriguez and the gun ended up at a Day's Inn in Delaware on February 11, 2021, where he was arrested.³ He had a small amount of crack in his pocket, and about \$1,800 in cash in the hotel room in the same drawer as the gun. The contents of his phone showed that he was in possession of about 11 grams of cocaine while he also possessed the gun on February 8, 2021, and more generally that he was engaged in drug dealing.

If that were the end of the story of this case, Rodriguez's guideline range of 24-30 months would seem more appropriate. But in the course of investigating Rodriguez, law enforcement learned that he was deeply involved in criminality, including associating with a violent gang called NorthPak.

B. The Defendant's Larger Participation in Gang and Drug Crimes

In 2019 and 2020, Wilmington suffered from a rash of gun violence, particularly among young people. Based on social media analysis, informants, and ballistics analysis, law enforcement believed that several of the shootings and murders were perpetrated by a gang of

² The woman who bought Rodriguez's gun also bought over a dozen other guns. Some have never been recovered.

³ Police attempted to traffic stop Rodriguez on February 10 out of a concern that he may be in possession of a gun, but he fled from that traffic stop into Pennsylvania and it was called off.

young men referring to themselves as “Northpak.” The State of Delaware has now charged a number of people – including the defendant – with illegal gang participation and other offenses. That case is pending, and is not the subject of much discussion herein. However, the indictment charges a number of defendants – people provably associated with the defendant – with violent crimes including several murders. Because the defendant was associating with this group of violent people, his conduct in distributing guns to his peers is particularly dangerous and reckless.

A deeper look into Rodriguez’s case shows how guns get into the hands of gangs, how gang members display those guns to intimidate the opposition, how they use the guns to perpetrate violence, and the direct line between those guns and the death of young men in the community. His ties to the Northpak gang are throughout his social media and phone contents, including photographs of him with known Northpak members and direct message conversations with the gang. For example, in October 2020, after the state of Delaware indicted many members of Northpak’s rival gang, Rodriguez was a part of a group chat about the fact that many of the “opps” were now in custody. Rodriguez joked about getting arrested just so that he could beat them up (“bout to get booked punch on them and bail out”).

Many of his social media conversations were about getting guns from his gun supplier and trading them with or selling them to his friends and associates. He also regularly posted photographs of himself with large stacks of cash, bragging about getting money from selling drugs. Some of those posts are included in paragraphs 21-34 of the Presentence Report (“PSR”), but there are many more. Sometimes, he posted videos wherein guns, cash, and/or apparent drugs were visible. He commonly referenced having a “trap” in Chester, meaning a stash house. Simply put, he was both publicly and privately engaged in criminality. And his displays of wealth and

guns were not innocent – they were intended to send a message to his rivals that he was not to be trifled with.

This gang behavior on social media was not just playacting. Many members of NorthPak and of the rival gang have been killed or shot. Rodriguez and his fellow NorthPak members frequently posted photographs taunting the “opps.” On December 9, 2020, Rodriguez-Fitzgerald posted a “story” on Instagram of himself holding cash and a gun, “tagging” his friend Ryjee Pinkney. Days later, on December 26, 2020, Pinkney was murdered.



Rodriguez’s group chats revealed times when the group would find out that fellow members of the gang were killed, shot, or arrested. At no point did it appear that they considered abandoning their war to protect themselves or the public.

Rodriguez bragged both publicly and privately on social media about shooting people. In a January 2021 Instagram group conversation including his gun supplier, Rodriguez and his friends were discussing and sharing photographs of guns. Rodriguez said, “I just recently bussed

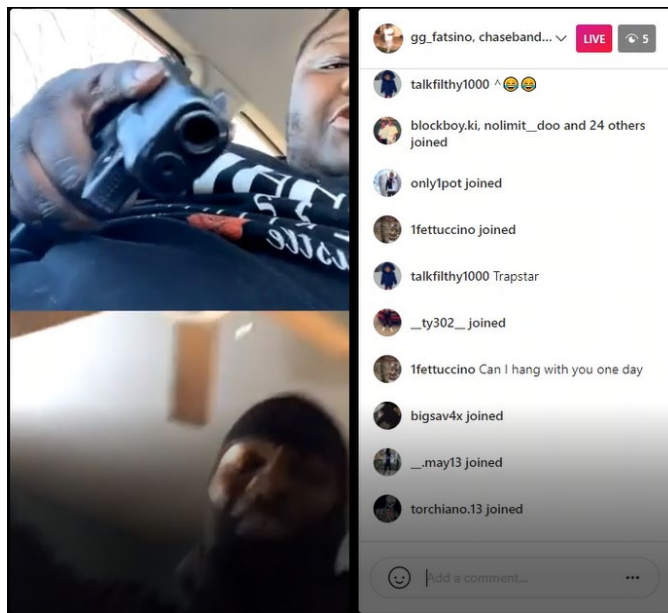
a n*gga ass so I know I don't got a jammer,” meaning that he recently shot someone so he knows his gun doesn't jam. He also said “Just get me that draco mini and I promise you it's going to be dirty first week I get it,” referencing a type of gun referred to as a Draco. Photographs of the defendant holding a Draco-style weapon are throughout his social media profiles:



Examples of Rodriguez associating with charged Northpak members are throughout his social media. Known Northpak members and others asked him for weapons regularly. In January 2021, one person privately messaged Rodriguez to ask “what’s the word,” and he responded that “my folks ain’t come up here wit the blicks yet, you already scrambling.” Blicks is a common term referring to guns, so in that message Rodriguez was saying his gun supplier had not come “up” to Delaware yet with the guns. In other messages with the gun supplier, the supplier would ask Rodriguez what he wanted from the gun store. At one point in February 2021, Rodriguez sent his supplier an article about a shooting of a 13-year-old boy, and said “that’s why I been telling you I need dem blicks they just hit my little hitter.” During that conversation the supplier said that he would be in touch soon from the store when he found a Draco, and then he

offered Rodriguez an AR Pistol with 75-100 rounds.

The defendant's public-facing profile similarly showed his propensity for violence. Around 12:30 p.m. on February 8, 2021 – the same day he went to New Jersey to pick up the tan gun that is the subject of his this case – Rodriguez posted an Instagram Live video in which he brandished another gun. A screenshot follows:



Instagram Lives are live streamed, meaning that they occur in real time. Agents confirmed the location data from Rodriguez's phone around the time the Instagram Live video was posted and confirmed that it was in the Chester, Pennsylvania area, which was where his car was seen on surveillance that day. Videos like this are posted with the intention of intimidating rival gang members and building street credibility. But they also lead directly to violence when rivals use the videos as a call to arms.

C. The Defendant's Criminal History

Although the defendant is a young man, he has already been convicted of very serious charges and at least one served long prison sentence. In 2013, at age 18, he was found driving a stolen car. PSR at ¶ 51. Months later, he was arrested after discarding 65 bags of heroin that he

appeared to be selling, because he had about \$915 on him. PSR at ¶ 56. In 2014, he ran from police and discarded a backpack containing a sawed-off shotgun. PSR at ¶ 59. He also had \$830 in his possession. There is no indication in the PSR that he had a job in 2013 or 2014 (or in 2021 when he was arrested for that matter) that would explain his legitimate possession of that much cash. Rodriguez appears to have served about five years in prison for the gun offense and may have been released sometime in 2020. Based on the contents of his phone, he did not wait long to start his criminal behavior again after his release.

It is appropriate for the Court to sentence the defendant to a lengthy term of imprisonment for this, his second, conviction for possessing a gun, given that his last five-year sentence did not deter him from quickly reoffending.

D. The Government Requests a Variance to a 57 Month Sentence

In sum, Rodriguez was engaged in a criminal lifestyle for several months before his arrest. He discussed guns and drugs both privately with his friends and Northpak members and publicly on social media. He made no secret of his willingness to engage in violence to protect himself and his group and to harm the opposition. His relationship with his gun supplier made him an important part of Northpak and means that he was personally responsible for putting guns in the hands of young people.

The Sentencing Guidelines for this offense do not factor in anything except for his February 11 gun and the small amount of crack. The guidelines do not reflect the other indicia of criminality in the defendant's social media and phone. They also do not punish him for fleeing the traffic stop attempt on the day before his arrest. If the defendant were to receive a four-level enhancement for his other criminal conduct and other guns, and a two-level enhancement for the flight, he would be facing guidelines of 46-57 months. The government's requested sentence

would be at the top of that range.

Given the circumstances, a 24-30 month sentence is not adequate to punish him or to protect the public. Nor does such a sentence deter other gang associates who may be perfectly willing to risk a few years of incarceration for the benefit of their gang. Rather, the government's requested sentence of 57 months sends the appropriate message and meets the other goals of sentencing.

Respectfully submitted,

DAVID C. WEISS
United States Attorney

By: /s/ Jennifer K. Welsh
Jennifer K. Welsh
Assistant United States Attorney

DATED: August 26, 2022